



# Conveyancing (Scotland) Act 1924

1924 CHAPTER 27 14 and 15 Geo 5

## 1 †Short title, extent and commencement of Act.

- (1) This Act may be cited as the Conveyancing (Scotland) Act, 1924.
- (2) ..... F1
- (3) This Act shall apply to Scotland only.

### Textual Amendments

F1 S. 1(2), repealed by [Statute Law Revision Act 1950 \(14 Geo. 6 c. 6\)](#)

### Modifications etc. (not altering text)

C1 A dagger appended to a marginal note means that it is no longer accurate

## 2 Interpretation clause.

The words and expressions after mentioned or referred to shall have the several meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction (that is to say):—

- (1) The words and expressions used in this Act and in the schedules annexed to this Act which are interpreted in the <sup>M1</sup>Titles to Land Consolidation (Scotland) Act, 1868, and the <sup>M2</sup>Conveyancing (Scotland) Act, 1874, shall have the meaning assigned thereto respectively by these Acts, subject to the following qualifications:—
  - (a) “Land” or “lands” shall not include “securities”;
  - (b) “Heritable securities” and “securities” shall include real burdens and securities by way of ground annual, which either appear in the appropriate Register of Sasines as a burden on the land out of which they are payable or are contained in a deed the recording of which in such Register on behalf of the original creditor would infest him therein and in the land out of which the same are payable, or either of them, and securities over a lease, but shall not include securities constituted by ex facie absolute disposition; and

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- (c) “Conveyance” and “deed” and “instrument” shall include all deeds, notices of title, decrees, petitions and writings specified in this Act; and these words and the words “writing,” “writ” and “decree” occurring in the said Acts and in this Act shall each mean and include an extract or office copy of such “conveyance,” “deed,” “instrument,” “writing,” “writ” or “decree”:
- (2) “Extract” and “office copy” shall each mean and include a duly authenticated extract of any act, decree or warrant of the Lords of Council and Session, or any inferior court, or a duly authenticated extract or office copy from the Register of the Great Seal, or from the Books of Council and Session, or of any sheriff court, or of any other public authentic register of probative writs, or from the appropriate Register of Sasines, of any conveyance, deed, instrument, writing, writ or decree, and shall also mean and include a probate of the will or testamentary settlement of a person deceased issued by any court of probate in England or Northern Ireland, or in any part of His Majesty’s Dominions, or an exemplification of such probate:
- (3) “Deduction of title” shall mean the specification in a deed, decree or instrument of the writ or series of writs (without narration of the contents thereof) by which the person granting such deed or in whose favour such decree is conceived or by whom such instrument is expedite, has acquired right from the person from whom such title is deduced, and such specification shall be a compliance with an instruction to “deduce” a title in terms of this Act:
- (4) “Adjudication” shall include adjudication whether for debt or in implement, and constitution and adjudication whether for debt or in implement, and declarator and adjudication:
- (5) “Lease” shall mean a lease which has been registered or is registrable in the Register of Sasines in virtue of the <sup>M3</sup>Registration of Leases (Scotland) Act, 1857, and Acts amending the same:
- (6) “Law agent” shall mean and include writers to the signet, solicitors in the supreme courts, procurators in any sheriff court, and every person entitled to practise as an agent in a court of law in Scotland:
- (7) “Agent” in the Schedules hereto shall mean law agent or notary public:
- (8) “Register of Sasines” shall mean and include the General Register of Sasines, the Particular Registers of Sasines now discontinued, the Register of Sasines kept for any royal or other burgh and the Register of Booking in the burgh of Paisley.

**Modifications etc. (not altering text)**

**C2** S. 2(1)(b) applied with modifications by [Covntryside \(Scotland\) Act 1967 \(c. 86\), s. 70\(6\)](#) and [Mines and Quarries \(Tips\) Act 1969 \(c. 10\), s. 35](#).

**Marginal Citations**

**M1** 1868 c. 101.  
**M2** 1874 c. 94.  
**M3** 1857 c. 26.

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### 3 Disposition, &c. by person uninfert.

If a disposition of land, or an assignation, discharge or deed of restriction of a heritable security duly recorded in the appropriate Register of Sasines, or of any part of such security, is granted by a person having a right to such land, or to such heritable security, or such part thereof, but whose title to such land or heritable security or part thereof has not been completed by being so recorded, and who in such disposition or other deed deduces his title from the person last infert or having the last recorded title, in or as nearly as may be in the terms of Form No. 1 of Schedule A to this Act in the case of land, or in or as nearly as may be in manner prescribed in Note 2 to Schedule K to this Act in the case of a heritable security, then on such disposition or other deed being recorded in the appropriate Register of Sasines, the title of the grantee thereof shall be in all respects in the same position as if his title were completed as at the date of such recording by notarial instrument duly expedand recorded according to the present law and practice, and the provisions of section one hundred and forty-six of the <sup>M4</sup>Titles to Land Consolidation (Scotland) Act, 1868, shall apply to such disposition. .

#### Modifications etc. (not altering text)

**C3** S. 3 excluded by [Land Registration \(Scotland\) Act 1979 \(c. 33, SIF 31:3\)](#), **ss. 15(3), 30(2)**

**C4** S. 3 amended by [Conveyancing \(Amendment\) \(Scotland\) Act 1938 \(c. 24\)](#), **s. 1**

#### Marginal Citations

**M4** [1868 c.101](#)

### 4 Completion of title.

Any person having right either to land or to a heritable security by a title which has not been completed by being recorded in the appropriate Register of Sasines, may complete his title in manner following:—

- (1) A person having such right to land may complete a title thereto by recording in the appropriate Register of Sasines a notice of title in or as nearly as may be in the terms of Form No. 1 of Schedule B to this Act, in which notice of title such person shall deduce his title from the person last infert:
- (2) When the writ forming the immediate connection with the person last infert is an unrecorded conveyance, deed or decree, the recording of which in the appropriate Register of Sasines on behalf of the person in whose favour the same is conceived would have completed his title by infertment, the person having such right to the land therein contained or part thereof may complete a title thereto by recording in the appropriate Register of Sasines such conveyance, deed or decree, docqueted in manner prescribed in Note 7 to Schedule B to this Act, along with a notice of title in or as nearly as may be in the terms of Form No.2 of that Schedule, in which notice of title such person shall deduce his title from the person in whose favour such conveyance, deed or decree is conceived:
- (3) A person having such right to a heritable security, or part thereof, which appears in the appropriate Register of Sasines as a burden on land, may complete a title thereto by recording in the appropriate Register of Sasines a notice of title in or as nearly as may be in the terms of Form No. 3 of Schedule B to this Act, or in the case of a ground-annual in or as nearly as may be in the terms of Form No. 4 of that Schedule,

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in which notice of title such person shall deduce his title from the person last infeft in such heritable security or holding the last recorded title thereto:

- (4) A person having such right to an unrecorded heritable security or part thereof contained in a deed the recording of which in the appropriate Register of Sasines on behalf of the original creditor would have infeft him therein and in the land out of which it is payable, or either of them, but which has not been so recorded, may complete a title thereto by recording in the appropriate Register of Sasines such heritable security, which shall be docketed in manner prescribed in Note 7 to Schedule B to this Act, along with a notice of title in or as nearly as may be in the terms of Form No. 5 of that Schedule, or in the case of a ground-annual in or as nearly as may be in the terms of Form No. 6 of that Schedule, in which notice of title such person shall deduce his title from the original creditor in such heritable security.

And on such notice of title being recorded as in this section provided, the title of the person on whose behalf it is recorded shall be in all respects in the same position as if his title were completed as at the date of such recording by notarial instrument in the appropriate form duly expedite and recorded according to the present law and practice.

**Modifications etc. (not altering text)**

- C5** S. 4 excluded by [Land Registration \(Scotland\) Act 1979 \(c. 33, SIF 31:3\)](#), **s. 3(6)**  
**C6** S. 4 amended by [Conveyancing \(Amendment\) \(Scotland\) Act 1938 \(c. 24\)](#), **s. 1**

**5 Deduction of title.**

- (1) In a deduction of title in terms of this Act it shall be competent to specify as a title or as a midcouple or link of title, any statute, conveyance, deed, instrument, decree or other writing whereby a right to land or to any estate or interest in or security over land is vested in or transmitted to any person, or in virtue of which a notarial instrument could be expedite, or which could be used as a midcouple or link of title in expediting such instrument, or any minute of a meeting at which any person is appointed to any place or office, if such appointment involves a right to land or to an estate or interest in or security over land; and any copy of or excerpt from such minute of meeting certified as correct by the Chairman of such meeting or other person duly authorised to sign such minute or to give extracts therefrom, or by any law agent or notary public shall be prima facie evidence of the terms of such minute of meeting.
- (2) (a) When the holder of a heritable security . . . <sup>F2</sup> has died, whether infeft or uninfeft, or with or without a recorded title, and whether testate or intestate, any confirmation in favour of an executor of such deceased which includes such security shall of itself be a valid title to the debt thereby secured, and shall also be a warrant for such executor dealing with such debt and also with such security in terms of the third and seventh sections of this Act, and also for completing a title to such security in terms of the fourth section of this Act.
- (b) For the purposes of this subsection, “confirmation” shall include any probate or letters of administration or other grant of representation to movable or personal estate of a deceased person [<sup>F3</sup>issued—
- (a) by any court in England and Wales or Northern Ireland and noting his domicile in England and Wales or in Northern Ireland, as the case may be, or
- (b) by any court outwith the United Kingdom and sealed in Scotland under section 2 of the <sup>M5</sup>Colonial Probates Act 1892

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and] the confirmation thereby implied shall operate in favour of the person or the persons or the survivors or survivor of them to whom such probate, letters of administration or other grant of representation were granted; and “executor” shall include such person or persons; and such implied confirmation shall be deemed to include all heritable securities which belonged to the deceased . . . <sup>F2</sup>

(3) (a) It shall be competent in any warrant, interlocutor or decree of court conferring a right to land or to a heritable security, or granting authority to complete a title thereto, and also in the application upon which such warrant, interlocutor or decree proceeds, to insert a deduction of title from the person last infeft or holding the last recorded title, and an extract of such warrant, interlocutor or decree shall be equivalent to a disposition of land or an assignation of a heritable security granted in terms of section three of this Act and on being recorded in the appropriate Register of Sasines shall have the same force and effect as such a disposition or assignation duly recorded in such register.

(b) Section twenty-four of the <sup>M6</sup>Titles to Land Consolidation (Scotland) Act, 1868, and section forty-four of the <sup>M7</sup>Conveyancing (Scotland) Act, 1874, are hereby amended in accordance with the provisions of this subsection, and the procedure prescribed in section forty four of the said Act of 1874, as hereby amended, shall be competent irrespective of whether the trust title has or has not been duly completed and recorded, and shall be applicable to all judicial factors within the meaning of section three of the said Act of 1868, and both of such sections hereby amended shall apply to heritable securities, and such heritable security may be referred to in any warrant, interlocutor or decree, or in any application upon which the same proceeds, in the manner prescribed in the forms relative thereto referred to in section four of this Act.

**Textual Amendments**

- F2** Words repealed with savings by [Succession \(Scotland\) Act 1964 \(c. 41\), s. 34\(2\), Sch. 3](#)
- F3** Words substituted by [Administration of Estates Act 1971 \(c. 25\), Sch. 1 para. 3](#)

**Modifications etc. (not altering text)**

- C7** S. 5 excluded by [Land Registration \(Scotland\) Act 1979 \(c. 33, SIF 31:3\), s. 15\(3\)](#)
- C8** S. 5 applied by [Conveyancing and Feudal Reform \(Scotland\) Act 1970 \(c. 35\), s. 12\(3\)](#)
- C9** S. 5(1) modified by [Electricity Act 1989 \(c. 29, SIF 44:1\), Ss 70, 112\(3\), Sch.10 para. 35\(1\)](#)
- C10** S. 5(2) amended by [Succession \(Scotland\) Act 1964 \(c. 41\), s. 15\(1\)](#)

**Marginal Citations**

- M5** 1892 c. 6.
- M6** 1868 c. 101.
- M7** 1874 c. 94.

**6 Notice of title equivalent to notarial instrument.**

(1) A notice of title expedite in terms of this Act shall be equivalent to a notarial instrument expedite according to the present law and practice, and the provisions of section one hundred and forty-six of the <sup>M8</sup>Titles to Land Consolidation (Scotland) Act, 1868, shall apply to such notice of title.

(2) . . . . . <sup>F4</sup>

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**Textual Amendments**

**F4** S. 6(2) repealed by [Finance Act 1985 \(c. 54, SIF 114\)](#), s. 98(6), [Sch. 27 Pt. IX](#)

**Marginal Citations**

**M8** 1868 c. 101.

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.....<sup>F5</sup>

**Textual Amendments**

**F5** S. 7, Schs. B Note 5, C, F Note 4 repealed by [Conveyancing and Feudal Reform \(Scotland\) Act 1970 \(c. 35\)](#), s. 48, [Sch. 11 Pt. II](#)

**8 Description by reference and short reference to deed bearing more than one date.**

- (1) It shall be no objection to a description by reference to a particular description of land in accordance with section sixty-one of the <sup>M9</sup>Conveyancing (Scotland) Act, 1874, that the description referred to contains a description by reference of a larger piece of land of which the land particularly described forms part, and Schedule O annexed to the said Act of 1874 is hereby repealed and Schedule D to this Act is substituted therefor: The provisions of this section shall be retrospective.
- (2) From and after the commencement of this Act, where land in Scotland is held under and by virtue of a deed of entail registered in the Register of Sasines in which such land has been particularly described, it shall not be necessary in any proceedings for disentail of the whole or any part of such land, or in any instrument of disentail to be executed under the authority of the Court of Session, or in any instrument of disentail to which the authority of the Court of Session falls to be interponed in the course of such proceedings, to repeat the particular description of the land at length, but it shall be sufficient that such land shall be described by reference in the manner provided for by section sixty-one of the Conveyancing (Scotland) Act, 1874.
- (3) In specifying any writ recorded in any Register of Sasines, it shall be competent for the better identification of such writ, to state the number of the volume or book of the register in which, and of the folio on which, the same has been recorded; but it shall be no objection to the specification of any writ that such volume or book and folio or either of them are not stated or are misstated, provided that such specification is sufficient for the identification of such writ.
- (4) Where any deed, instrument, or writing bearing more than one date is [<sup>F6</sup>for any purpose] specified or referred to in any other deed, instrument, or writing, it shall be no objection to such specification or reference that only the first date is given with the addition of the words “and subsequent date” (or “dates”).

[<sup>F7</sup>(5) Note 1 to Schedule D to this Act shall apply to a reference competently made to any deed for reservations, real burdens, conditions, provisions, limitations, obligations and stipulations affecting lands and to the form of such reference given in Schedule H of the <sup>M10</sup>Conveyancing (Scotland) Act, 1874.]



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#### Textual Amendments

- F6** Words inserted by [Conveyancing Amendment \(Scotland\) Act 1938 \(c. 24\), s. 2\(1\)\(a\)](#)  
**F7** S. 8(5) added by [Conveyancing Amendment \(Scotland\) Act 1938 \(c. 24\), s. 2\(1\)\(b\)](#)

#### Modifications etc. (not altering text)

- C11** S. 8 excluded by [Land Registration \(Scotland\) Act 1979 \(c. 33, SIF 31:3\), s. 15\(1\)](#)

#### Marginal Citations

- M9** 1874 c. 94.  
**M10** 1874 c. 94.

## 9 Amendment of law as to reference to conditions of title.

- (1) Notwithstanding any conditions or clauses affecting land, whether prohibitory, irritant, resolute or otherwise, expressed in any deed, instrument, or writing relating to such land, whether dated before or after the commencement of this Act, it shall not be necessary in any deed, instrument or writing by which any heritable security over such land is constituted, transmitted, or otherwise dealt with, to repeat or to refer to any such conditions or clauses: Provided that this subsection shall not apply to any disposition or other conveyance granted in virtue of any power of sale contained in a heritable security (including any disposition granted by a creditor to himself pursuant to section eight of the <sup>M11</sup>Heritable Securities (Scotland) Act, 1894), nor to any decree by which a security right is or may be converted into a right of property, and where in any heritable security, whether dated before or after the commencement of this Act, such conditions or clauses have not been repeated or referred to, any decree pronounced in connection with such security pursuant to the Heritable Securities (Scotland) Act, 1894, and Schedule D to that Act, shall repeat or refer to such conditions or clauses, and the said Schedule D is hereby amended accordingly.
- (2) It shall be no objection to any deed, instrument, or writing by which a heritable security was constituted, transmitted, or otherwise affected, although dated before the commencement of this Act, that the same neither contained nor referred to conditions or clauses affecting the security subjects, repetition of or reference to which was required by any deed or otherwise in accordance with the law as existing prior to the commencement of this Act.
- (3) When any conditions or clauses affecting land have been duly referred to in the title thereto of the proprietor for the time duly recorded in the appropriate Register of Sasines, whether before or after the commencement of this Act, it shall not be competent to object to such title on the ground that in any prior deed, instrument, or writing applicable to such land such conditions or clauses were neither repeated nor referred to.
- (4) In any case in which there has been or shall be an omission or failure in any deed, instrument, or writing applicable to land, and forming the title of the proprietor for the time, to repeat or refer to conditions or clauses affecting such land, it shall be competent for such proprietor to grant and to record in the appropriate Register of Sasines a deed of acknowledgment setting forth the omission or failure, and repeating or referring to the conditions or clauses, and thenceforth the deed, instrument, or writing as to which such omission or failure occurred shall be deemed to have duly contained or referred to such conditions or clauses. Such deed of acknowledgment

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may be in the form of Schedule E hereto, and may be founded on by all concerned, although the warrant of registration thereon shall be on behalf of the granter only.

**Modifications etc. (not altering text)**

**C12** S. 9(1) proviso excluded by [Land Registration \(Scotland\) Act 1979 \(c. 33, SIF 31:3\)](#), s. 15(2)(a)

**C13** S. 9(3)(4) excluded by [Land Registration \(Scotland\) Act 1979\(c. 33, SIF 31:3\)](#), s.15(2)(a)

**Marginal Citations**

**M11** 1894 c. 44.

**10 Warrants of registration.**

- (1) The forms of warrant of registration provided in Schedule F hereto and the notes to that Schedule shall be substituted for the forms of warrant of registration provided in Schedule F, No. 2, and Schedule H, Nos. 1 and 2, annexed to the <sup>M12</sup>Titles to Land Consolidation (Scotland) Act, 1868, and in Schedule A, No. 3, annexed to the <sup>M13</sup>Land Registers (Scotland) Act, 1868; and (except as after provided) it shall be sufficient to insert in the warrant of registration on any conveyance, deed, or writing, the name of the person on whose behalf it is to be recorded accompanied by the words “within named,” or such other words as will identify such person, provided that when a conveyance, deed, or writing is to be recorded on behalf of any person not mentioned therein, the designation of such person shall be inserted in such warrant.
- (2) It shall not be competent to challenge the validity of any warrant or registration on any conveyance, deed, or writing recorded before the commencement of this Act, on the ground that the person in whose favour such warrant is conceived is not designed therein, or that the nature of his right is not stated therein, if such warrant, on being read as forming part of such conveyance, deed, or writing, shall identify such person as a person therein named and designed.
- (3) When any conveyance, deed, or writing, whether recorded before or after the commencement of this Act, is in favour of two or more persons, or of trustees ex officii, and contains a destination to the survivors of such persons, or to the successors of such trustees, all the qualities of such destination shall be presumed to be imported into a warrant of registration in their favour written on such conveyance, deed, or writing, and it shall not be necessary that such destination be inserted therein.
- (4) When an unrecorded disposition or unrecorded bond and disposition in security, or other unrecorded deed, decree or heritable security is to be recorded . . . <sup>F8</sup> along with a notice of title, the same shall be so recorded in virtue of one warrant of registration in, or as nearly as may be in the terms indicated in Note 5 to the said Schedule F to this Act, which shall be written . . . <sup>F8</sup> on such notice of title.
- (5) Where any conveyance, deed, or writing, or an extract thereof, can be competently recorded in the General Register of Sasines for preservation and execution as well as for publication, and is so recorded, there shall be inserted in any extract to be issued of the same a warrant of execution in the short form provided for in the Schedule to the <sup>M14</sup>Writs Execution (Scotland) Act, 1877, and execution may competently follow upon such extract in manner provided in section three of that Act.
- (6) From and after the commencement of this Act it shall not be competent to give investiture ex propriis manibus.



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- (7) Section one hundred and forty-one of the <sup>M15</sup>Titles to Land Consolidation (Scotland) Act, 1868, and section twelve of the <sup>M16</sup>Land Registers (Scotland) Act, 1868, and sections six and seven of the Writs Execution (Scotland) Act, 1877, are hereby amended in accordance with the enactments of this section, and Schedule F, No. 2, and Schedule H annexed to the first-mentioned Act of 1868, and Schedule A, No. 3, and Schedule B annexed to the second-mentioned Act of 1868, are hereby repealed.

#### Textual Amendments

**F8** Words repealed by [Conveyancing and Feudal Reform \(Scotland\) Act 1970 \(c. 35\)](#), s. 48, **Sch. 11 Pt. II**

#### Marginal Citations

**M12** 1868 c. 101.

**M13** 1868 c. 64.

**M14** 1877 c. 40.

**M15** 1868 c. 101.

**M16** 1868 c. 64.

## 11 Consolidation of superiority and property.

- (1) Where a superior infeft has acquired the property or mid-superiority of land, or where the proprietor of the property or of the mid-superiority infeft therein has acquired the superiority, a minute in or as nearly as may be in the terms of Schedule G to this Act, written on the disposition whereby such property, mid-superiority, or superiority has been acquired, and recorded along with such disposition in the appropriate Register of Sasines, shall be held to consolidate the property, or the mid-superiority as the case may be, with the superiority, all to the same effect as a minute of consolidation executed in terms of section six of the <sup>M17</sup>Conveyancing (Scotland) Act, 1874, and duly recorded.
- (2) Where a superior infeft has acquired the property or mid-superiority of land, and the disposition in his favour contains a clause of resignation ad perpetuam remanentiam, the recording of such disposition in the appropriate Register of Sasines, whether before or after the commencement of this Act, shall be deemed to have had and shall have the effect of consolidating the property, or the mid-superiority as the case may be, with the superiority.

#### Marginal Citations

**M17** 1874 c. 94.

## 12 Abolition and commutation of grain, &c. feu-duties.

- (1) In feus granted after the commencement of this Act, the feu-duty shall be payable in sterling money, and it shall not be lawful to stipulate for a feu-duty payable in grain or other fungible, or the amount of which falls to be ascertained by reference to the price or value of grain or other fungible, or otherwise than from the expression of the amount thereof in sterling money in the feu contract or feu charter.
- (2) In the case of feus granted before the commencement of this Act, in which the feu-duty, or part thereof, is payable in grain or other fungible, or the amount of which falls to be

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ascertained by reference to the price or value of grain or other fungible, or otherwise than from the expression of the amount thereof in sterling money in the feu contract or feu charter, it shall be competent for the superior and the proprietor of the land burdened by such feu-duty to agree as to the amount in sterling money representing the amount of such feu-duty, and to enter into an agreement, in or as nearly as may be in the terms of Schedule G annexed to the Conveyancing (Scotland) Act, 1874, as the circumstances will admit, commuting such feu-duty into a specified annual amount of sterling money, and such agreement being duly recorded in the appropriate Register of Sasines shall be binding on the parties thereto, and their respective successors in title, and on heritable creditors and all other persons interested in the superiority and in the feu in all time thereafter.

- (3) In the case of feus, such as are described in the immediately preceding subsection, the feu-duty payable from which shall not, before the thirty-first day of December, one thousand nine hundred and thirty-two, have been commuted into an annual feu-duty expressed in sterling money, the annual feu-duty thenceforth payable therefrom shall be a sum in sterling money representing the average annual value of the feu-duty actually paid, or payable, or delivered, or deliverable, for the ten years from the first day of January one thousand nine hundred and twenty-three to the thirty-first day of December one thousand nine hundred and thirty-two inclusive. It shall thereafter be incumbent on either the superior or the proprietor, on the demand of the other, to enter into an agreement in or as nearly as may be in the terms of the said Schedule G, specifying the commutation into sterling money of the feu-duty and to concur in recording the same in the appropriate Register of Sasines. Each party shall pay his own expenses of such agreement, and the amount of stamp duty and recording dues shall be paid equally. If either party shall fail when duly required to enter into such agreement, it shall be competent for either party to apply to the sheriff for a decree declaring the commuted value in sterling money of the feu-duty, and such decree, if and when pronounced, shall be recorded by the party obtaining such decree in the appropriate Register of Sasines. The expenses of such application and procedure thereon shall be in the discretion of the sheriff. Such agreement, or such decree, being duly recorded in the appropriate Register of Sasines, shall be binding on the parties thereto, and their respective successors in title, and on all persons interested in the superiority and in the feu in all time thereafter.
- (4) In cases in which a feu-duty has been allocated by the superior or by an allocation binding on the superior, each part of the feu shall, for the purposes of this section, be regarded as a separate feu. In all other cases in which a feu has been divided, then, after the thirty-first day of December one thousand nine hundred and thirty-two, the proprietor of any part thereof may exercise, as regards the whole feu, the whole powers conferred by this section, and the proceedings shall be as binding and effectual as if exercised by the whole proprietors, and the costs thereby incurred, as far as payable by the proprietors of the feu, shall be borne by such proprietors in proportions corresponding to their ultimate liability for feu-duty.
- (5) The provisions of this section, and any procedure following thereon, shall not affect any liability for feu-duty, or any obligation of relief as regards feu-duty, and such liability and such obligations shall remain in force and be applicable to the feu-duty as commuted.
- (6) The provisions of this section applicable to the commutation of feu-duty payable in grain or other fungible, or the amount of which is ascertainable by reference to the price or value of grain or other fungible, shall be applicable to dry multures as hereinafter defined, in like manner as if the person whose lands are subject to the

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payment of such dry multures were the feudal vassal in these lands holding of and immediately under the person entitled to exact such dry multures. For the purposes of this subsection, dry multures shall mean and include (a) compensation payable in respect of commutation pursuant to the <sup>M18</sup>Thirlage Act, 1799, and (b) all multures and other dues and payments of a similar nature which are exigible irrespective of services rendered, provided that in either case such compensation or multures or dues or payments are payable in grain or other fungible, or that the amount thereof is ascertainable by reference to the price or value of grain or other fungible. Provided also, that in all future proceedings under the last-mentioned Act the compensation shall be fixed in sterling money.

- (7) On the expiry of ten years from the commencement of this Act carriages and services such as are referred to in sections twenty and twenty-one of the <sup>M19</sup>Conveyancing (Scotland) Act, 1874, and which shall not have been commuted in terms of those sections, shall cease to be exigible.
- (8) All heirs of entail, liferenters, corporations, trustees, judicial factors, tutors, curators and other guardians, heritable creditors in possession, and other persons who are in actual receipt of the income of any estate of property or of superiority are, notwithstanding any limitations in their titles, hereby authorised, without any further sanction, to exercise all the powers conferred by this section.

**Modifications etc. (not altering text)**

C14 S. 12 extended by [Local Government \(Scotland\) Act 1973 \(c. 65, SIF 81:2\)](#), s. 228(2)

**Marginal Citations**

M18 1799 c. 55.

M19 1874 c. 94.

**13 Allocation of feu-duty.**

The allocation contained in a memorandum of allocation of feu-duty by a superior separate from the deed in favour of the proprietor, which is dated either before or after the commencement of this Act, shall, on the memorandum being recorded in the appropriate Register of Sasines, be binding on heritable creditors and all others having interest. Provided always that such allocation shall not prejudice or affect the rights of existing heritable creditors who are not parties thereto. Any such memorandum dated after the commencement of this Act may be in or as nearly as may be in the form of Schedule H hereto.

**14 Abolition of real warrandice.**

- (1) From and after the commencement of this Act, it shall not be competent to dispone lands in real warrandice of a conveyance of other lands, and such real warrandice shall not arise ex lege from any contract or agreement entered into after the commencement of this Act.
- (2) .....

F9

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**Textual Amendments**

**F9** S. 14(2) repealed by [Conveyancing Amendment \(Scotland\) Act 1938 \(c. 24\), s. 3](#)

**15 Transmission of personal obligation.**

- (1) The personal obligation contained in any deed or writing whereby any heritable security is constituted shall not transmit in terms of section forty-seven of the <sup>M20</sup>Conveyancing (Scotland) Act, 1874, against any person taking the estate by conveyance in the sense of that section dated after the commencement of this Act, unless such conveyance be signed by such person.
- (2) After the commencement of this Act, summary diligence, in terms of the said section, shall not be competent against any obligant whose obligation is created by succession, gift or bequest, unless in cases in which there shall be an agreement to the transmission of such obligation executed by such obligant.
- (3) An agreement for transmission of a personal obligation pursuant to the said section may be in terms of Form No. 2 of Schedule A to this Act, or in any other form sufficiently expressing such agreement.

**Marginal Citations**

**M20** [1874 c. 94.](#)

**16,17.** ..... **F10**

**Textual Amendments**

**F10** Ss. 16, 17 repealed by [Prescription and Limitation \(Scotland\) Act 1973 \(c. 52, SIF 97\), s. 16\(2\), Sch. 5 Pt. I](#)

**F11** **18** .....

**Textual Amendments**

**F11** S. 18 repealed (1.8.1995) by [1995 c. 7, ss. 14\(2\), 15\(2\), Sch. 5](#) (with ss. 9(3)(5)(7), 13, 14(3))

**19 Applicability of forms prescribed by Act.**

The forms prescribed by this Act for the completion of the titles to and the conveyance, assignation, discharge or restriction of rights of property or fee in land or heritable securities shall respectively be applicable to all other rights in or over land or in or over a heritable security the title to which may according to the present law and practice be competently completed by the recording of such title in the appropriate Register of Sasines.

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**20 Ratification by married woman.**

It shall be no objection to any deed or writing, whether relating to land or not, granted or concurred in by a married woman before or after the commencement of this Act, that the same has not been judicially ratified by her.

**21 Terce and courtesy.**

F12

**Textual Amendments**

F12 Ss. 21, 24(4) repealed with savings by [Succession \(Scotland\) Act 1964 \(c. 41\), s.34\(2\)](#), [Sch.3](#)

**22 Assimilation of law as regards legitim and jus relictæ, &c.**

- (1) In the case of any person dying after the commencement of this Act, the rules of law which determine what estate belonging to a deceased is subject to claims for legitim shall be applicable in determining what estate belonging to the deceased is subject to the claim for jus relictæ or jus relictî: And the estates of all such persons shall be distributed on the footing that there shall no longer be any distinction between the description of estate subject to claims for legitim and the description of estate subject to claims for jus relictæ and jus relictî.
- (2) All debts which if due to any person dying after the commencement of this Act would, according to the present law and practice or in terms of this section, be subject to legitim and jus relictæ or jus relictî shall, if due by the deceased or out of his or her estate, form, so far as the estate on which such debts are secured may be insufficient to meet the same, deductions from the deceased's moveable estate before ascertaining legitim and jus relictæ or jus relictî.

**23 Ground-annuals.**

- (1) Any ground-annual which appears in the appropriate Register of Sasines as a burden on the land out of which it is payable may be transferred in whole or in part by the creditor therein by an assignation in, or as nearly as may be in, the terms of Form No. 2 of Schedule K to this Act; and upon such assignation being recorded in the appropriate Register of Sasines it shall have the same force and effect as a duly recorded assignation or disposition and assignation in the form generally in use at the passing of this Act. Such assignation shall, unless otherwise expressed, imply:—
  - (a) That the same is granted in favour of the assignee, heritably and irredeemably, with a destination to his heirs and assignees whomsoever:
  - (b) That the ground-annual and duplications or other casual payments, if any, or (if such duplications or casual payments have been commuted into an additional ground-annual) the additional ground-annual thereby assigned, are to be uplifted and taken by the assignee furth of and from the land specified in such assignation as being the land out of which the same are payable, or furth of any part or portion of such land, and readiest rents, maills and duties of the same, in terms of the contract of ground-annual or other deed or memorandum of agreement constituting such ground-annual and such duplications and other casual payments, or additional ground-annual, if any, and at such terms or dates or periods and with such interest and penalties in case of non-payment

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- at the due dates as are provided for in such contract of ground-annual or other deed, or in such memorandum of agreement:
- (c) That there are also assigned the deed constituting such ground-annual and the memorandum of agreement, if any, by which the commutation of grassums, duplications or other casual payments has been effected, and the whole clauses and obligations therein contained so far as the cedent in such assignation has right thereto and all diligence and execution competent to him thereon:
  - (d) That where the cedent can competently do so he disposes to the assignee the land out of which the ground-annual and the casual payments or additional ground-annuals, if any, are payable, with the parts and pertinents thereof, and his whole right, title and interest therein, but with and under any burdens and conditions affecting the same ranking prior to his right, and that in real security to the assignee of such ground-annual and others, and of the whole other payments or prestations, conditions, obligations and others incumbent on the obligant for such ground-annual and others:
  - (e) That where the cedent can competently do so he assigns to the assignee the rents, maills and duties of the land out of which the ground-annual is payable, and also the writs thereof, and the writs constituting the title to such ground-annual, all to the full extent of his own right therein.
- (2) Such ground-annual may be effectually renounced and discharged, and the land out of which the same is payable disburdened of the same, in whole or in part, by a discharge in, or as nearly as may be in the terms of Form No. 4 of Schedule K to this Act duly recorded in the appropriate Register of Sasines.
  - (3) Such ground-annual may be restricted as regards any portion of the land out of which the same is payable by a deed of restriction in, or as nearly as may be in, the terms of Form No. 7 of Schedule K to this Act, and on such deed of restriction being recorded in the appropriate Register of Sasines, such ground-annual shall be restricted accordingly to the land out of which the same is payable, other than the land disburdened by such deed or restriction, which land thereby disburdened shall be released from the burden of such ground-annual.
  - (4) The <sup>M21</sup>Heritable Securities (Scotland) Act, 1894, as modified by the <sup>M22</sup>Sheriff Courts (Scotland) Act, 1907, and Acts amending the same shall apply to actions of maills and duties for the recovery of a ground-annual in cases in which according to the present law and practice an action of maills and duties is competent.
  - (5) In the event of any ground-annual falling into arrear for two years together, the creditor holding a duly recorded title thereto shall be entitled to raise an action of adjudication against the proprietor of the land out of which the same is payable, and any other persons interested therein whose rights are postponed to that of the creditor in such ground-annual, and in such action the creditor may set forth that the ground-annual is in arrear for two years, and may crave the Court to adjudge and declare that such proprietor and other persons, if any, have by their failure to pay such arrears forfeited their rights in and to such land, and that such land, together with the rents, maills and duties thereof current and unpaid at the date of such action, do from that date belong to the pursuer absolutely, and the Court may, after service on the proprietor and on the other persons interested, if any, and after such intimation and procedure as the Court may think fit, grant such application and issue decree in the terms craved; and on such decree, which may be in or as nearly as may be in the terms of Form No. 8 of Schedule K to this Act, being pronounced, and an extract thereof in which the land shall be described at length or by reference, being recorded in the appropriate Register of Sasines, such land shall belong and pertain to the creditor in such ground-annual



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freed and disencumbered of all rights and burdens postponed to the ground-annual, and the right in and to such land of such proprietor and any other persons called as defenders to such action shall be extinguished.

- (6) Any action raised in virtue of the immediately preceding subsection of this section may be raised in the Sheriff Court . . . <sup>F13</sup>, or where the ground-annual is not less in amount than two pounds ten shillings per annum, in the Court of Session.

#### Textual Amendments

**F13** Words repealed by [Civil Jurisdiction and Judgments Act 1982 \(c. 27, SIF 45:3\)](#), **Sch. 14**

#### Modifications etc. (not altering text)

**C15** [S. 23\(5\)](#) applied by War Damage to [Land \(Scotland\) Act 1939 \(c. 80\)](#), **s. 4(2)**

#### Marginal Citations

**M21** 1894 c. 44.

**M22** 1907 c. 51.

## 24 Registered leases. Assimilation of forms.

All enabling powers and rights which, by this Act, are conferred upon or implied in favour of a person in right of land or of a security over land, including power of sale and other rights under a bond and disposition in security, shall, so far as applicable, be held as conferred upon a person who has right to a lease, or to a security over a lease respectively; and the forms prescribed by this Act may be used in connection with the constitution, transmission, restriction and discharge of securities over leases, and the completion of titles to leases and to securities over the same, and to sales thereof under such securities, and such forms shall have the same force and effect as the corresponding forms prescribed by the <sup>M23</sup>Registration of Leases (Scotland) Act, 1857, and the clauses held as implied in any of the forms prescribed by this Act shall, so far as applicable be held as implied when such forms are used in connection with leases and securities over the same: Provided that in applying this Act and relative schedules to leases and securities over the same the following modifications and such other verbal modifications as may be necessary shall be given effect to:—

- (1) For “lands,” “lands and others” or “subjects” there shall be substituted “lease,” for “conveyance” or “disposition” there shall be substituted “assignation” . . . <sup>F14</sup>, for “bond and disposition in security” there shall be substituted “bond and assignation in security,” for “assignation of a bond and disposition in security” there shall be substituted “translation of a bond and assignation in security,” for “dispone” or “convey” there shall be substituted “assign,” for “proprietor” there shall be substituted “lessee,” for “disponee” there shall be substituted “assignee,” for “infert” there shall be substituted “having a recorded title,” for “superior” there shall be substituted “landlord” and for “feu-duty” there shall be substituted “rent due to the landlord”:
- (2) In an assignation of a lease, or in a bond and assignation in security of a lease, or in a notice of title relating to a lease, there may be substituted for a description of the land a reference to such lease in or as nearly as may be in the terms of Schedule J to this Act:
- (3) In the event of the lease, to which a title is being completed by notice of title under this Act, not having been recorded in the appropriate Register of Sasines, it shall be recorded therein along with such notice of title in which the lease shall be referred

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to in manner prescribed in Note 5 to Schedule J to this Act, and such lease, before being so recorded, shall be docketed in manner prescribed in Note 7 to Schedule B to this Act, and, on the same being so recorded, it shall have the same force and effect as a recorded title under the <sup>M24</sup>Registration of Leases (Scotland) Act, 1857, and Acts amending the same:

- (4) ..... <sup>F15</sup>
- (5) A renunciation of a lease in terms of Schedule G to the Registration of Leases (Scotland) Act, 1857, may competently be granted by a person not holding a recorded title to such lease, provided that he shall therein deduce his title from the person holding the last recorded title in manner prescribed in Note 4 to Schedule J to this Act, and on such renunciation being recorded in the appropriate Register of Sasines such lease shall be as effectually renounced as if the title of the granter of such renunciation had been completed as at the date of such recording by notarial instrument in the appropriate form duly expedite and recorded according to the present law and practice, and section thirteen of the said Act of 1857, and Schedule G annexed to that Act, are hereby amended accordingly:
- (6) Section twenty-four of the <sup>M25</sup>Titles to Land Consolidation (Scotland) Act, 1868, and section forty-four of the <sup>M26</sup>Conveyancing (Scotland) Act, 1874, as amended by section five of this Act, shall apply to a lease and to a security over a lease, and in the warrant, interlocutor or decree of Court conferring a right to such lease or security over the same or granting authority to complete title thereto, and also in the application upon which such warrant, interlocutor or decree proceeds, such lease may be referred to in or as nearly as may be in the terms of Schedule J hereto:
- (7) An adjudger or purchaser of a lease, or an adjudger or assignee of a security over a lease, may complete his title thereto by recording in the appropriate Register of Sasines an extract of the decree of adjudication or of sale (as the case may be) or may use such extract decree as an assignation or one of a series of assignations of an unrecorded lease or of an unrecorded security over a lease, and section ten of the <sup>M27</sup>Registration of Leases (Scotland) Act, 1857, is hereby amended accordingly.

#### Textual Amendments

- F14** Words repealed by [Conveyancing and Feudal Reform \(Scotland\) Act 1970 \(c. 35\), s. 48, Sch. 11 Pt. II](#)  
**F15** Ss. 21, 24(4) repealed with savings by [Succession \(Scotland\) Act 1964 \(c. 41\), s.34\(2\), Sch.3](#)

#### Modifications etc. (not altering text)

- C16** S. 24 amended by [Conveyancing \(Amendment\) \(Scotland\) Act 1938 \(c. 24\), s. 1](#); excluded by [Conveyancing and Feudal Reform \(Scotland\) Act 1970 \(c. 35\), s. 32, Sch. 8 para. 25](#)  
**C17** S. 24(2) excluded by [Land Registration \(Scotland\) Act 1979 \(c. 33, SIF 31:3\), s. 15\(1\)](#)

#### Marginal Citations

- M23** 1857 c. 26.  
**M24** 1857 c. 26.  
**M25** 1868 c. 101.  
**M26** 1874 c. 94.  
**M27** 1857 c. 26.

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## **25 Form of bond and disposition in security.**

- (1) The import of the after-mentioned clauses of the Form No. 1 of Schedule FF annexed to the Titles to Land Consolidation (Scotland) Act, 1868, occurring in any bond and disposition in security (whether granted before or after the commencement of this Act) shall from and after the commencement of this Act be as follows, videlicet:—
- (a) The clause of assignation of rents shall be held to import an assignation to the creditor of the rents and other duties (including feu-duties and casualties in the case of a superiority and ground-annuals and grassums in the case of a ground-annual) payable after the date from which interest on the principal sum in the security commences to run, irrespective of whether the terms of payment of such rents and others are the legal or the conventional terms, and including therein a power to the creditor to insure all buildings against loss by fire, but only for such sum as may be necessary to cover the creditor's interest therein, and to recover from the debtor the premiums paid for that purpose, and also on default in payment of principal or interest, or on the notour bankruptcy of the proprietor of the land conveyed in security or on his granting a trust deed for behoof of his creditors, to enter into possession of such land and to uplift the rents and other duties thereof, and to insure against loss by breakage of glass and against claims by tenants and third parties, and all such other incidental risks as a prudent proprietor would reasonably insure against, and to make all necessary renewals and repairs on the security subjects, including the roads, fences, ditches and drains, subject to accounting to the debtor for any balance of rents or other sums actually received beyond what is necessary for payment to such creditor of the principal and interest and penalty due to him, and of all expenses incurred by him in reference to such possession, including the expenses of factorage, management, insurance, renewals and repairs:
  - (b) The clause of assignation of writs shall be held to import an assignation to the creditor of writs and evidents, including searches, and all unrecorded and unfeudalised conveyances, with power to the creditor in the event of a sale under the powers of the bond, but subject to the rights of any person holding prior rights to possession of such writs and evidents, to deliver the same, so far as in the creditor's possession, to the purchaser, and to assign to the purchaser any right he may possess to have the writs and evidents made forthcoming:
  - (c) The clause reserving right of redemption shall be held to import a right to redeem the security, which may be exercised by the persons and in manner prescribed in this Act:
  - (d) The clause granting power of sale shall be held to import a right to the creditor in default of payment to exercise power of sale in the manner prescribed in this Act, and also power to the creditor, after there has been failure to comply with a demand for payment, and to the same extent as would have been competent to the debtor, to obtain an allocation of any feu-duty or ground-annual affecting the security subjects in such proportions and on such terms as to augmentation or otherwise as may be agreed upon between the superior or the holder of the ground-annual and the creditor, and the memorandum of such allocation of feu-duty may be endorsed on the deed or instrument or notice of title forming the infestment of the debtor, or may be a separate memorandum in or as nearly as may be in the terms of Schedule H to this Act, but such allocation of feu-duty or ground-annual shall be without prejudice to the rights of other persons liable therefor.
- (2) Such bond and disposition in security shall also import that the debtor shall be personally liable to the creditor in the whole expenses of the preparation and execution

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thereof, and of recording the same, and all reasonable expenses incurred by the creditor in calling up the same and realising or attempting to realise the subjects of security, and exercising the other powers conferred upon him.

- (3) Section one hundred and nineteen of the said Act of 1868 is hereby amended in accordance with this section.

**Modifications etc. (not altering text)**

**C18** S. 25 excluded by [Conveyancing and Feudal Reform \(Scotland\) Act 1970 \(c. 35\)](#), s. 32, **Sch. 8 para. 26**

**26 Heritable creditors' remedies for recovery of feu-duties and ground-annuals.**

Where the security subjects in a bond and disposition in security, whether granted before or after the commencement of this Act, consist of or include one or more superiorities or one or more ground-annuals, the creditor, provided his title to the debt and security be complete and the debtor be in default in payment of principal or interest, may raise an action against the superior or person in right of the ground-annual, concluding for declarator that he has right to the feu-duties and casualties or ground-annuals and grassums payable to such superior or person, and may give notice by registered letter signed by the creditor or his law agent of the raising of such action to the vassals or the proprietors of the land from which such ground-annuals are payable, and from and after the date when such notice is received by them they shall be interpellated from making payment of the feu-duties, including duplicands or other multiples thereof, and casualties or ground-annuals and grassums, or additional feu-duties or ground-annuals constituted in lieu of such duplicands or other multiples, casualties and grassums, to the superior or person in right of the ground-annuals, and any payment thereafter made by them to such superior or person shall be of no effect in a question with the creditor in the event of his obtaining decree; and upon intimation of the decree obtained in such action to the vassals or proprietors of the land by registered letter signed by the creditor or his law agent, they shall make payment to the creditor of the feu-duties including duplicands or other multiples thereof and casualties or ground-annuals and grassums, and failing their doing so the creditor shall be entitled to recover the same in the same manner and subject to the same defences on the part of the vassals or proprietors of the land as if he were the superior or person in right of the ground-annuals duly infeft, and subject to accounting therefor to the superior or person in right of the ground-annuals, and payment to the creditor shall be a complete exoneration and discharge to such vassals or proprietors; and the action and the notice thereof and the intimation of the decree may be in or as nearly as may be in the forms, with the necessary modifications, authorised by section three of the <sup>M28</sup>Heritable Securities (Scotland) Act, 1894, and contained in Schedules A, B and C to that Act as modified by the <sup>M29</sup>Sheriff Courts (Scotland) Act, 1907, and Acts amending the same: Provided that such action may be combined with an action for recovery of maills and duties and that nothing in this section contained shall deprive the creditor of any existing remedy competent to him for recovering such feu-duties, duplicands, multiples and casualties or ground-annuals and grassums.

**Marginal Citations**

**M28** 1894 c. 44.

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M29 1907 c. 51.

## 27 Restriction of agent's lien.

From and after the commencement of this Act it shall be incompetent for any law agent or notary public acting for the proprietor or creditors or others, whose rights in or over land conveyed in security are postponed to those of the creditor in such heritable security, to acquire over the writs and evidents as against such creditor any right of hypothec, lien or retention after the date of recording such heritable security.

## 28 Assignment of bond and disposition in security.

Any bond and disposition in security, whether dated before or after the commencement of this Act, duly recorded in the appropriate Register of Sasines, may be transferred, in whole or in part, by the creditor in right thereof by an assignation in or as nearly as may be in the terms of Form No. 1 of Schedule K to this Act, and upon such assignation being recorded in the appropriate Register of Sasines, it shall have the same force and effect as a duly recorded assignation granted in the form prescribed in section one hundred and twenty-four of the <sup>M30</sup>Titles to Land Consolidation (Scotland) Act, 1868. Such assignation shall, except so far as otherwise therein stated, be deemed to convey to the grantee all rights competent to the grantor to the writs, and to the effect inter alia of vesting the assignee in the full benefit of all corroborative or substitutional obligations for the debt or any part thereof, whether contained in bonds or clauses of corroboration or agreements in gremio of conveyances, or by operation of law or otherwise, and right to recover payment from the debtor of all expenses properly incurred by the creditor in connection with such security, and shall have the effect of entitling the grantee, or those deriving right from or through him, to the benefit of any notices which have been served calling up the security, and all procedure which may have followed thereon, to the effect that the grantee or those deriving right from or through him may proceed as if he or they had originally served or instituted the same.

### Modifications etc. (not altering text)

C19 S. 28 excluded by [Conveyancing and Feudal Reform \(Scotland\) Act 1970 \(c. 35\)](#), s. 32, [Sch. 8 para. 27](#)

### Marginal Citations

M30 1868 c. 101.

## 29 Discharge of bond and disposition in security.

Any bond and disposition in security, whether dated before or after the commencement of this Act, duly recorded in the appropriate Register of Sasines, may be effectually renounced and discharged and the land therein effectually disburdened of the same, in whole or in part, by a discharge in or as nearly as may be in the terms of Form No. 3 of Schedule K to this Act, duly recorded in the appropriate Register of Sasines.

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**Modifications etc. (not altering text)**

**C20** S. 29 excluded by [Conveyancing and Feudal Reform \(Scotland\) Act 1970 \(c. 35\)](#), s. 32, **Sch. 8 para. 27**

**30 Restriction of bond and disposition in security.**

The security constituted by any bond and disposition in security, whether dated before or after the commencement of this Act, duly recorded in the appropriate Register of Sasines, may be restricted as regards any portion of the land thereby conveyed by a deed of restriction in or as nearly as may be in the terms of Form No. 5 of Schedule K to this Act, and, upon such deed of restriction being recorded in the appropriate Register of Sasines, the security shall be restricted to the land therein contained other than the land disburdened by such deed, and the land thereby disburdened shall be released from such security wholly, or to the extent specified in such deed of restriction. A partial discharge and deed of restriction of a bond and disposition in security may be combined in one deed, which may be in or as nearly as may be in the terms of Form No. 6 of the said Schedule K.

**Modifications etc. (not altering text)**

**C21** S. 30 excluded by [Conveyancing and Feudal Reform \(Scotland\) Act 1970 \(c. 35\)](#), s. 32, **Sch. 8 para. 27**

**31 Description of lands and deduction of title unnecessary in certain deeds relating to heritable securities.**

In assignments and discharges, whether total or partial, granted in accordance with the provisions of sections twenty-eight and twenty-nine of this Act, a description of the land shall not be necessary, nor shall it be necessary to insert such a description in a writ of acknowledgment in terms of Schedule II to the <sup>M31</sup>Titles to Land Consolidation (Scotland) Act, 1868, provided that the bond and disposition in security to which it relates is therein referred to in manner prescribed in Schedule K to this Act, and section one hundred and twenty-five of the said Act of 1868 as amended and re-enacted by section sixty-three of the <sup>M32</sup>Conveyancing (Scotland) Act, 1874, and the said Schedule II are hereby amended accordingly; and in such assignments and discharges, and in deeds of restriction granted in accordance with section thirty of this Act, it shall not be necessary to deduce the title of the granter, nor in such writs of acknowledgment the title of the deceasing creditor, if such granter holds or such deceasing creditor held a recorded title and the date is given of the recording of the same in the appropriate Register of Sasines in manner prescribed in Note 2 to Schedule K to this Act.

**Modifications etc. (not altering text)**

**C22** S. 31 repealed so far as relating to writs of acknowledgement and to s. 125 of, and Sch. (II) to, Titles to Land Consolidation (Scotland) Act 1868 (c. 101) with savings by [Succession \(Scotland\) Act 1964 \(c. 41\)](#), s. 34(2), **Sch. 3**; excluded by [Conveyancing and Feudal Reform \(Scotland\) Act 1970 \(c. 35\)](#), s. 32, **Sch. 8 para. 28**



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#### Marginal Citations

M31 1868 c. 101.

M32 1874 c. 94.

### 32 Redemption of bond and disposition in security. Notice and procedure and evidence of service.

- (1) A debtor in a bond and disposition in security, whether dated before or after the commencement of this Act, or the proprietor of the land disposed in security or part thereof shall be entitled to redeem the security at the place and at the date of payment or at any term of Whitsunday or Martinmas thereafter, on giving three months' premonition to the creditor, which premonition may be in or as nearly as may be in the terms of Form No. 1 of Schedule L to this Act, and may be delivered to the creditor or sent by registered post to him at his last known address, and an acknowledgment signed by the creditor in or as nearly as may be in the terms of Form No. 2 of the said schedule, or a certificate in or as nearly as may be in the terms of Form No. 3 of the said schedule, accompanied (if the premonition has been posted) by the postal receipt, shall be sufficient evidence of such premonition, which, if posted, shall be held to have been given on the day next after the day of posting; and, if the address of the creditor is not known, or if the registered packet containing such premonition is returned to the debtor or proprietor, or his law agent, with intimation that the same could not be delivered, such premonition shall be sent to the Keeper of the Record of Edictal Citations, General Register House, Edinburgh, and shall be equivalent to premonition to the creditor, and an acknowledgement of receipt by the Keeper of the Record of Edictal Citations on a copy of such premonition shall be sufficient evidence thereof; and, at the term of payment mentioned in such premonition, and on payment of the principal sum secured, interest due thereon, and all expenses incurred by the creditor, as provided in section twenty-five of this Act, the creditor shall be bound to grant in favour of the debtor or proprietor, a valid discharge of such security; and where, on account of the death or absence of the creditor or from any other cause, the debtor or proprietor cannot obtain a discharge, it shall be competent to him to consign the amount due, including interest and expenses, if any, in the bank specified in the bond, if any bank shall be so specified, and, if not, in one or other of the banks in Scotland, incorporated by or under Act of Parliament or Royal Charter, to be made forthcoming to the creditor or his representatives, and thereupon a certificate may be expedite by any agent, in, or as nearly as may be in, the terms of Form No. 4 of Schedule L to this Act, and the recording thereof in the appropriate Register of Sasines shall have the effect of completely disencumbering the land of such security as at the date of such consignment to the extent of the amount so consigned. For the purposes of this section the creditor shall be the person appearing on the record as holding the last recorded title to the bond and disposition in security to be redeemed, or if such person be dead, the <sup>F16</sup>executor or] reputed substitute or person entitled to succeed thereto in terms of the bond or any recorded transmission thereof, notwithstanding any alteration of the succession not appearing on the Register of Sasines.
- (2) The stamp duty chargeable on any such certificate granted by a law agent shall be the same as if it were granted by a notary public.

#### Textual Amendments

F16 Words added by [Succession \(Scotland\) Act 1964 \(c. 41\)](#), s. 34(1), Sch. 2 paras. 17, 18

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#### Modifications etc. (not altering text)

- C23** S. 32 excluded by [Conveyancing and Feudal Reform \(Scotland\) Act 1970 \(c. 35\)](#), s. 32, **Sch. 8 para. 29**
- C24** Functions of Keeper of the Record of Edictal Citations now exercisable by such clerks and officers of the Court of Session as may be appointed from time to time: [Reorganisation of Offices \(Scotland\) Act 1928 \(c. 34\)](#), s. 8 and [Public Records \(Scotland\) Act 1937 \(c. 43\)](#), s. 13

### 33 Notice calling up bond and disposition in security.

Without prejudice to his rights and remedies under the personal obligation the creditor in a bond and disposition in security, or any part thereof, whether dated before or after the commencement of this Act, may serve a notice calling up the same in or as nearly as may be in the terms of Form No. 1 of Schedule M to this Act. Such notice shall be given to the person infert in the land disposed in security and appearing on the record as the proprietor, or if the person last infert in the land or any part thereof be dead, then to the [<sup>F17</sup>executor or] reputed substitute or person entitled to succeed to the same in terms of the last recorded title thereto, notwithstanding any alteration of the succession not appearing on the Register of Sasines. If the last proprietor was an incorporated company which has been removed from the Register of Joint Stock Companies or a person deceased who has left no heirs or whose heirs are unknown, notice shall be given to the Lord Advocate. Where the estates of the debtor have been sequestrated under the <sup>M33</sup>Bankruptcy (Scotland) Act, 1913, or any Act thereby repealed, notice shall be given to the trustee in the sequestration (unless such trustee has been discharged) as well as to the bankrupt. If the proprietor be a body of trustees, it shall be sufficient if the notice is given to a majority of the trustees infert in the land. There shall be no obligation on the creditor to give notice to any other person unless for the purpose of preserving recourse against such other person. Notice under this section shall cease to be effective for the purposes of a sale under the powers of a bond and disposition in security after a period of five years from the date of such notice if no exposure to sale of the land or any part thereof has followed thereon, or otherwise after five years from the date of the last exposure to sale of the land or part thereof following on such notice.

#### Textual Amendments

- F17** Words added by [Succession \(Scotland\) Act 1964 \(c. 41\)](#), s. 34(1), **Sch. 2 paras. 17, 18**

#### Modifications etc. (not altering text)

- C25** S. 33 excluded by [Conveyancing and Feudal Reform \(Scotland\) Act 1970 \(c. 35\)](#), s. 32, **Sch. 8 para. 30**; explained by [Conveyancing and Feudal Reform \(Scotland\) Act 1970 \(c. 35\)](#), s. 33(1)
- C26** S. 33: functions transferred (19.5.1999) by virtue of S.I. 1999/678, art. 2(1), **Sch.**

#### Marginal Citations

- M33** 1913 c. 20.

### 34 Service of notice.

Notice under the immediately preceding section may be delivered to the person to whom it is desired to be given or sent by registered post to him at his last known address, or in the case of [<sup>F18</sup>the Secretary of State at St. Andrew's House], Edinburgh,

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and an acknowledgment signed by such person in or as nearly as may be in the terms of Form No. 2 of Schedule M to this Act, or a certificate in or as nearly as may be in the terms of Form No. 3 of that schedule, accompanied (if the notice has been posted) by the postal receipt, shall be sufficient evidence of the service of such notice, and if the address of the person to whom such notice is desired to be given is not known [<sup>F19</sup>or if it is not known whether such a person is still alive] or if the registered packet, containing such notice, is returned to the creditor or his law agent, with an intimation that the same could not be delivered, such notice shall be sent to the Keeper of the Record of Edictal Citations, General Register House, Edinburgh, and shall be equivalent to notice to such person, and an acknowledgment of receipt by the Keeper of the Record of Edictal Citations, on a copy of such notice, shall be sufficient evidence thereof. Such notice shall be deemed to be formal requisition for all purposes, including the purposes of the <sup>M34</sup>Heritable Securities (Scotland) Act, 1894; and if posted shall be held to be given on the next day after the day of posting.

#### Textual Amendments

- F18** Words in s. 34 substituted (19.5.1999) by S.I. 1999/678, art. 4  
**F19** Words inserted by Conveyancing and Feudal Reform (Scotland) Act 1970 (c. 35), s. 34

#### Modifications etc. (not altering text)

- C27** S. 34 amended by Recorded Delivery Service Act 1962 (c. 27), s. 1, Sch.; excluded by Conveyancing and Feudal Reform (Scotland) Act 1970 (c. 35), s. 32, Sch. 8 para. 30  
**C28** Functions of Keeper of the Record of Edictal Citations now exercisable by such clerks and officers of the Court of Session as may be appointed from time to time: Registration of Offices (Scotland) Act 1928 (c. 34), s. 8 and Public Records (Scotland) Act 1937 (c. 43), s. 13  
**C29** S. 34: functions transferred (19.5.1999) by virtue of S.I. 1999/678, art. 2(1), Sch.

#### Marginal Citations

- M34** 1894 c. 44.

### 35 Power to dispense with or shorten induciæ.

It shall be competent to the person to whom such notice has been given, with the consent of the creditors, if any, holding securities ranking pari passu with or postponed to the security held by the creditor giving notice, to dispense with the whole or part of the period of notice by a minute written upon the said notice or upon a copy thereof, in or as nearly as may be in the terms of Form No. 2 of Schedule M to this Act.

### 36 Advertisement.

After the expiry of three months from the date of giving such notice, or the expiry of such shorter period as may have been agreed to under the immediately preceding section, the creditor, failing payment of the whole sums to which he is entitled, may advertise the land or any part thereof for sale by public roup.

### 37 Contents of advertisement.

Such advertisement shall specify shortly the land to be sold, and the day, hour, and place of sale, and the upset price or prices, and it shall not be necessary to state that the sale is proceeding under the powers contained in a bond and disposition in security.

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**[<sup>F20</sup>38 Periods during which, and newspapers in which, advertisement required.**

- (1) An advertisement for the purposes of an exposure to sale shall be inserted at least once weekly during a period of not less than three consecutive weeks in accordance with the provisions of this section, and the exposure to sale so advertised shall take place within a period of fourteen days beginning with the day following the day of the publication of the third advertisement required under this subsection.
- (2) An advertisement for the purposes of an offer for sale by private bargain shall be inserted in like manner during a period of not less than two consecutive weeks, and it shall be a requirement of a competent sale that an enforceable contract to sell shall be concluded within a period of twenty-eight days beginning with the day following the day of the publication of the second advertisement required under this subsection.
- (3) Insertion of an advertisement for the purposes of the two foregoing subsections shall be as follows, that is to say—
  - (a) in the case of land situated in the county of Midlothian, in at least one daily newspaper published in Edinburgh;
  - (b) in the case of land situated in the county of Lanark, in at least one daily newspaper published in Glasgow;
  - (c) in the case of land situated elsewhere in Scotland, in at least one daily newspaper published in Scotland circulating in the district where the land or the main part thereof is situated and in at least one newspaper (if any) circulating as aforesaid and published either in the county in which the land, or any part thereof, is situated or in a county (being a county in Scotland) adjacent to that county.
- (4) A copy of an advertisement required by this section shall, when supported by a certificate of publication by the publisher, printer, or editor of the newspaper in which that advertisement is inserted, be sufficient evidence of the insertion and publication thereof.
- (5) For the purposes of this section—
  - (a) a week means the period between midnight on Saturday night and midnight on the succeeding Saturday night, and
  - (b) “exposure to sale” and “offer for sale” respectively include re-exposure to sale and re-offer for sale.]

**Textual Amendments**

**F20** S. 38 substituted by [Conveyancing and Feudal Reform \(Scotland\) Act 1970 \(c. 35\), s. 36](#)

**Modifications etc. (not altering text)**

**C30** S. 38 excluded by [Conveyancing and Feudal Reform \(Scotland\) Act 1970 \(c. 35\), s. 32, Sch. 8 para. 30](#)

**39 Where exposure to sale to take place.**

Any exposure to sale may take place in Edinburgh or Glasgow, or at any burgh within the meaning of the Town Councils (Scotland) Acts, 1900 to 1923 which is situated within the county in which the land, or the chief part thereof, lies, or which is nearest to such land, or the chief part thereof, whether within the same county or not.

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**Modifications etc. (not altering text)**

- C31** S. 39 excluded by [Conveyancing and Feudal Reform \(Scotland\) Act 1970 \(c. 35\), s. 32, Sch. 8 para. 30](#)

**40 Exposure in lots and apportionment of feu-duty.**

[<sup>F21</sup>(1) The land, or any part thereof, may be exposed to, or offered for, sale either in whole or in lots, and in the former case at such upset price or prices as the creditor may think proper, and in the latter case at the best price that can be reasonably obtained] subject to such proportion of any existing feu-duty, ground-annual, stipend, valued rent or land tax, as the creditor may think proper, and, without prejudice to the rights of any third party, the creditor may, in selling the land in lots, provide that the proprietor for the time being of any lot shall be obliged to relieve the proprietor or proprietors of another lot or lots of the whole or such part of an existing feu-duty and casualties, ground-annual, stipend or land tax, as the creditor may think proper, and for that purpose the creditor may create such obligation a real burden on such lot.

[<sup>F22</sup>(2) Where there is a sale as aforesaid in lots, the creditor shall have power to create such rights and impose such duties and conditions as he considers may be reasonably required for the proper management, maintenance and use of any part of the land to be held in common by the owners for the time being of the lots.]

[<sup>F22</sup>(3) For the purpose of exercising the power conferred by the last foregoing subsection, a creditor shall have the like right as has a proprietor by virtue of section 32 of the <sup>M35</sup>Conveyancing (Scotland) Act 1874 to execute and record to the like effect a deed of declaration of conditions in the manner prescribed by that section.]

**Textual Amendments**

- F21** Words substituted by [Conveyancing and Feudal Reform \(Scotland\) Act 1970 \(c. 35\), s. 37](#)  
**F22** S. 40(2)(3) added by [Conveyancing and Feudal Reform \(Scotland\) Act 1970 \(c. 35\), s. 37](#)

**Marginal Citations**

- M35** 1874 c. 94.

**41 Purchasers protected.**

(1) All proceedings under sections thirty-two to forty, inclusive, of this Act shall be valid and effectual notwithstanding that any person to whom premonition or notice requires to be given in terms of this Act may be [<sup>F23</sup>subject to any legal disability by reason of nonage or otherwise], and any sale and disposition in implement thereof shall be as valid to the purchaser as if made by the proprietor of the land not being under disability, and any such disposition shall import an assignation to the purchaser of the warrandice contained or implied in the bond and disposition in security under which the land is sold, and also an obligation by the granter of the security to ratify, approve and confirm the sale and disposition.

[<sup>F24</sup>(2) Where a disposition of land is duly recorded in the appropriate Register of Sasines and that disposition bears to be granted in the exercise of a power of sale contained in a deed granting a bond and disposition in security, and the exercise of that

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power was *ex facie* regular, the title of *abona fide* purchaser of the land for value shall not be challengeable on the ground that the debt had ceased to exist, unless that fact appeared in the said Register, or was known to the purchaser prior to the payment of the price, or on the ground of any irregularity relating to the sale or in any preliminary procedure thereto; but nothing in the provisions of this subsection shall affect the competency of any claim for damages in respect of the sale of the land against the person exercising the said power.]

#### Textual Amendments

- F23** Words in s. 41(1) substituted (25.9.1991) by [Age of Legal Capacity \(Scotland\) Act 1991 \(c. 50, SIF 31:1\)](#), ss. [10\(1\)](#), [11\(2\)](#), [Sch. 1 para. 26](#) (with s. 1(3))
- F24** S. 41(2) substituted by [Conveyancing and Feudal Reform \(Scotland\) Act 1970 \(c. 35\)](#), s. [38](#)

## 42 Mode of disburdening land sold under power of sale in heritable security.

- (1) Where land is sold by a heritable creditor under the powers competent to creditors in heritable securities, and no surplus of the price remains for consignation in terms of section one hundred and twenty-two of the <sup>M36</sup>Titles to Land Consolidation (Scotland) Act, 1868, or where such surplus remains and the same has been consigned in bank in terms of the said section one hundred and twenty-two, it shall be competent to any law agent or notary public to execute a certificate to the effect that no surplus remains where such is the case, or where such surplus remains and has been so consigned in bank, to the effect that such consignation has taken place, which certificate shall be in or as nearly as may be in the terms of Schedule N to this Act, and the disposition by the creditor to the purchaser shall, along with such certificate, when recorded in the appropriate Register of Sasines, have the effect of completely disencumbering the land sold of all securities and diligences posterior to the security of such creditor, as well as of the security and diligence of such creditor himself, save and except when the security and diligence of such creditor and any prior securities and diligences shall be assigned by way of further or collateral security to the purchaser.

- (2) ..... <sup>F25</sup>

#### Textual Amendments

- F25** S. 42(2) repealed by [Finance Act 1985 \(c. 54, SIF 114\)](#), s. [98\(6\)](#), [Sch. 27 Pt. IX](#)

#### Modifications etc. (not altering text)

- C32** S. 42 excluded by [Conveyancing and Feudal Reform \(Scotland\) Act 1970 \(c. 35\)](#), s. [32](#), [Sch. 8 para. 31](#)

#### Marginal Citations

- M36** 1868 c. 101.

## 43 Act to apply to all heritable securities.

The forms provided by this Act relative to bonds and dispositions in security or transactions incidental thereto, shall except as in this Act otherwise expressly provided apply, as nearly as may be, to all heritable securities, whether granted before or after the commencement of this Act, and deeds transmitting, discharging and restricting



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the same, and all notices of title completing a title thereto, except in so far as such provisions, enactments or forms may be inapplicable to the form or objects of such securities, and nothing in this Act contained shall prejudice or restrict the powers, rights, privileges and immunities of creditors in heritable securities, or of those deriving right from them, according to the present law and practice.

#### **44 General Register of Inhibitions and Register of Adjudications to be combined; limitation of effect of entries therein.**

- (1) The General Register of Inhibitions and Interdictions and the Register of Adjudications shall be combined, and the Keeper thereof shall keep only one register for inhibitions, interdictions, adjudications, reductions, and notices of litigiousity, and such register shall be called the Register of Inhibitions and Adjudications; and a reference in any public, general or local Act to the General Register of Inhibitions or the Register of Adjudications shall be deemed to mean and include such Register of Inhibitions and Adjudications.
  - (2) (a) No action whether raised before or after the commencement of this Act relating to land or to a lease or to a heritable security, shall be deemed to have had or shall have the effect of making such land, lease or heritable security litigious, unless and until [F26—
    - (i)] a notice relative to such action in or as nearly as may be in the form of Schedule RR annexed to the M37Titles to Land Consolidation (Scotland) Act, 1868, shall have been or shall be registered in the Register of Inhibitions and Adjudications in the manner provided by section one hundred and fifty-nine of that Act [F26; or
    - (ii) a notice of an application under section 8 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 has been registered in the said register.](b) No decree in any action of adjudication of land or of a lease or of a heritable security, whether pronounced before or after the commencement of this Act, and no abbreviate of any such decree shall be deemed to have had or to have any effect in making such land, lease or heritable security litigious.
- (3) (a) All inhibitions and all notices of litigiousity registered in terms of section one hundred and fifty-nine of the Titles to Land Consolidation (Scotland) Act, 1868, subsisting at the commencement of this Act shall prescribe and be of no effect on the lapse of five years after such commencement or at such earlier date as they would prescribe according to the present law and practice; and all inhibitions [F27, notices of litigiousity and notices of applications under section 8 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985] which relate to land or to a lease or to a heritable security and which shall be first registered after the commencement of this Act, shall prescribe and be of no effect on the lapse of five years from the date on which the same shall respectively take effect: Provided that in no case shall litigiousity be pleadable or be founded on to any effect after the expiry of six months from and after final decree is pronounced in the action creating such litigiousity.
  - (b) From and after the commencement of this Act interdiction, whether judicial or voluntary, shall be incompetent, and any interdiction which is legally operative at such commencement shall remain legally operative for not longer than the period of five years thereafter.

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- (4) (a) ..... <sup>F28</sup>
- (c) No deed, decree, instrument or writing granted or expedite by a person whose estates have been sequestrated under the <sup>M38</sup>Bankruptcy (Scotland) Act, 1856, or the Bankruptcy (Scotland) Act, 1913 [<sup>F29</sup>or the Bankruptcy (Scotland) Act 1985], or the heirs, executors, successors or assignees of such person relative to any land or lease or heritable security belonging to such person at the date of such sequestration or subsequently acquired by him shall be challengeable or denied effect on the ground of such sequestration if such deed, decree, instrument or writing shall have been granted or expedite, or shall come into operation at a date when the effect of recording [<sup>F30</sup>(a)] the abbreviate provided for under section forty-four of the said Act of 1913, as amended by this Act, shall have expired in terms of the said section as amended as aforesaid [<sup>F30</sup>; or (b) under subsection (1)(a) of section 14 of the Bankruptcy (Scotland) Act 1985 the certified copy of an order shall have expired by virtue of subsection (3) of that section], unless the trustee in such sequestration shall before the recording of such deed, decree, instrument or writing in the appropriate Register of Sasines have completed his title to such land, lease or heritable security by recording the same in such register [<sup>F31</sup>or have recorded a memorandum in such register [<sup>F32</sup>in the form provided by Schedule O to this Act]] Provided always, in the case of sequestrations awarded under the <sup>M39</sup>Bankruptcy (Scotland) Act, 1856, that the provisions of this section shall not apply to any deed, decree, instrument or writing dated within five years after the commencement of this Act.
- (5) The provisions of this section shall not affect the ranking of adjudgers inter se, or any real right obtained in virtue of a decree of adjudication, or in virtue of a decree pronounced in an action creating litigiousity, or by a trustee in bankruptcy, if such right has been completed by the recording in the appropriate Register of Sasines of any deed, decree, abbreviate, or instrument necessary to effect the completion of such right.
- (6) Section one hundred and fifty-nine of the <sup>M40</sup>Titles to Land Consolidation (Scotland) Act, 1868, and sections sixteen and seventeen of the <sup>M41</sup>Land Registers (Scotland) Act, 1868, . . . <sup>F33</sup> are hereby amended in accordance with this section, and section forty-two of the <sup>M42</sup>Conveyancing (Scotland) Act, 1874, and Schedule J thereto annexed, are hereby repealed.

#### Textual Amendments

- F26** S. 44(2)(a)(ii) and figure (i) inserted by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1985 \(c. 73, SIF 36:1\), s. 59\(1\), Sch. 2 para. 6\(a\)](#)
- F27** S. 44(3)(a) Words substituted by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1985 \(c. 73, SIF 36:1\), s. 59\(1\), Sch. 2 para. 6\(b\)](#)
- F28** S. 44(4)(a) and (b) repealed by [Bankruptcy \(Scotland\) Act 1985 \(c. 66, SIF 66\), s. 75\(2\), Sch. 8](#)
- F29** Words inserted by [Bankruptcy \(Scotland\) Act 1985 \(c. 66, SIF 66\), s. 75\(1\), Sch. 7 para. 5\(a\)](#)
- F30** Words inserted by [Bankruptcy \(Scotland\) Act 1985 \(c. 66, SIF 66\), s. 75\(1\), Sch. 7 para. 5\(b\)](#)
- F31** Words inserted by [Conveyancing Amendment \(Scotland\) Act 1938 \(c. 24\), s. 7\(1\)\(b\)](#)
- F32** Words substituted by [Bankruptcy \(Scotland\) Act 1985 \(c. 66, SIF 66\), s. 75\(1\), Sch. 7 para. 5\(c\)](#)
- F33** Words repealed by [Bankruptcy \(Scotland\) Act 1985 \(c. 66, SIF 66\), s. 75\(2\), Sch. 8](#)

#### Marginal Citations

- M37** 1868 c. 101.
- M38** 1856 c. 79.

*Status: Point in time view as at 19/05/1999.*

*Changes to legislation: Conveyancing (Scotland) Act 1924 is up to date with all changes known to be in force on or before 07 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- M39** 1856 c. 79.
- M40** 1868 c. 101.
- M41** 1868 c. 64.
- M42** 1874 c. 94.

#### **45 Provision for termination of perpetual trusts of moveables.**

In any case where the provisions of section nine of the <sup>M43</sup>Trusts (Scotland) Act, 1921, would apply to any deed, and to the right of any party thereunder if such deed had been dated after the thirty-first day of July, eighteen hundred and sixty-eight, the provisions of the said section shall, from and after the passing of this Act, apply to such deed and to the right of any party thereunder notwithstanding that the same be dated on or prior to the said thirty-first day of July, eighteen hundred and sixty-eight:

Provided that, in the application of the said provisions to the deeds to which this section refers and to the right of any party thereunder, the date of such deeds shall be deemed to be the date of the passing of this Act.

#### **Marginal Citations**

- M43** 1921 c. 58.

#### **46 Extract decree of reduction to be recorded.**

[<sup>F34</sup>(1)] In the case of the reduction of a deed, decree or instrument recorded in the Register of Sasines or forming a midcouple or link of title in a title recorded in the said register there shall be recorded in the said register either an extract of the decree of reduction of such deed, decree or instrument, or a title in which such extract decree forms a midcouple or link of title, and such decree of reduction shall not be pleadable against a third party who shall in bona fide onerously acquire right to the land, lease or heritable security contained in the deed, decree, or instrument reduced by such decree of reduction prior to an extract of such decree of reduction, or a title, in which it forms a midcouple or link of title, being recorded in the Register of Sasines.

[<sup>F35</sup>(2)] This section shall apply to the rectification of a document by an order under section 8 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 as it applies to the reduction of a deed but with the substitution of any reference to the decree of reduction of the deed with a reference to the order rectifying the document.]

#### **Textual Amendments**

- F34** S. 46 is renumbered as s. 46(1) by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1985 \(c. 73, SIF 61:1\)](#), s. 59, [Sch. 2 para. 7](#)
- F35** S. 46(2) inserted by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1985 \(c. 73, 61:1\)](#), s. 59, [Sch. 2 para. 7](#)

#### **Modifications etc. (not altering text)**

- C33** S. 46 amended by [Conveyancing and Feudal Reform Act 1970 \(c. 35\)](#), s. 41(2)

*Status: Point in time view as at 19/05/1999.*

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#### 47 **Re-recording of deeds relative to leasehold subjects.**

Where in terms of the <sup>M44</sup>Registration of Leases (Scotland) Act, 1857, or of section twenty-four of this Act, any deed or extract shall have been recorded in the appropriate Register of Sasines, and where in terms of that Act or of the said section any such deed or extract shall fall to be recorded again, or where any extract from a competent register of any deed the principal of which has already been recorded in the appropriate Register of Sasines falls to be so recorded, it shall not be necessary for the keeper of the Register of Sasines in which such deed or extract falls to be recorded, or in which such extract of any recorded deed falls to be recorded, to engross such deed or extract in the register at length, but the keeper of such Register of Sasines may in place of such engrossment enter in the register a short memorandum specifying the deed or extract and the book and folio in which the same is already engrossed, and in the case of an extract of a deed the principal of which has already been recorded in the appropriate Register of Sasines the book and folio in which the principal is already engrossed, and such memorandum shall have the same effect as if the deed or extract were engrossed in the register at length in place of such memorandum.

#### **Marginal Citations**

**M44** 1857 c. 26.

#### 48 **Duplicate plans may be retained with Register.**

Where any writ which refers to a plan signed as relative thereto is presented or transmitted by post for registration in the General Register of Sasines it shall be competent to ingive to the said register along therewith a duplicate of such plan, docketed with reference to the said writ and authenticated in the same manner as the principal plan, and such duplicate plan shall be retained in the said register. The ingiving of such duplicate plan shall be noted in the register, and acknowledgment of the receipt thereof shall be marked by the keeper of the register on the plan signed as relative to the writ.

Along with each register volume transmitted to the Keeper of the Records for custody there shall be sent the duplicate plans, if any, relative to any of the writs engrossed in such volume.

Such duplicate plans when transmitted to the Keeper of the Records shall remain in his custody, subject to the same rights on the part of the public to have access thereto as apply to the Record Volumes.

#### 49 **Saving clause.**

- (1) Nothing in this Act contained shall affect any action now in dependence or that shall be instituted before the commencement of this Act, or shall prevent the constitution, transmission, completion, or extinction of land rights or securities affecting land in the forms which were in use for these purposes prior to the passing of this Act, except in so far as such prior forms are hereby expressly repealed.
- (2) Nothing in this Act contained shall affect the preparation of the printed minutes and printed indexes of persons and places applicable to each county in Scotland, and the Keeper of the General Register of Sasines shall supply as full information in the printed minute books as hitherto according to the existing law and practice.

**Status:**

Point in time view as at 19/05/1999.

**Changes to legislation:**

Conveyancing (Scotland) Act 1924 is up to date with all changes known to be in force on or before 07 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.